

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

January 14, 2004

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. Nonpoint Source Conference *(Bruce Posthumus)*

Debbie Woodward, Dat Quach, Kristin Schwall, Craig Carlisle, John Phillips, and Bruce Posthumus attended the California 2003 Nonpoint Source Conference held in Ventura on November 5 - 7. The conference was sponsored by the State Water Resources Control Board, the California regional water quality control boards, and U.S. Environmental Protection Agency, Region 9. The program included sessions related to watershed protection and stewardship, TMDLs, agricultural runoff, urban runoff, permit streamlining to encourage best management practices on private lands, grazing and rangeland management, volunteer monitoring, project monitoring, sediment from roads, stream restoration, and invasive species. Bruce Posthumus made a presentation on the response to infestations of the invasive seaweed *Caulerpa taxifolia* in California. The SDRWQCB also participated in the conference poster session with posters and literature about *Caulerpa*.

2. San Diego River Conservancy *(Bruce Posthumus)*

The first two meetings of the Governing Board of the San Diego River Conservancy (SDRC) were held on November 12 and December 5. The SDRC was created by AB 2156 (see http://www.leginfo.ca.gov/pub/01-02/bill/asm/ab_2151-2200/ab_2156_bill_20020916_chaptered.html), which was signed into law in September 2002. The purposes of the SDRC are:

- (a) "To acquire and manage public lands within the San Diego River Area, and to provide recreational opportunities, open space, wildlife habitat and species restoration and protection, wetland protection and restoration, and protection and maintenance of the quality of the waters in the San Diego River for all beneficial uses, lands for educational uses within the area, and natural floodwater conveyance.
- (b) "To provide for the public's enjoyment, and to enhance the recreational and educational experience on public lands in the territory in a manner consistent with the protection of land and natural resources, as well as economic resources, in the area."

The Governing Board consists of nine voting and two non-voting members. One of the non-voting members is to be a representative selected by the SDRWQCB. Mike McCann represented the SDRWQCB at the first meeting of the Governing Board and Gary Stephany, the designated Regional Board representative, attended the second meeting. John Minan is a voting member but sits on the Governing Board as an "at large" member, not as a designated representative of the SDRWQCB. City of San Diego Mayor Dick

Murphy was elected chair of the Governing Board. City of San Diego Councilwoman Donna Frye was elected vice-chair. The Governing Board will advertise for an Executive Officer. In the interim, the California Coastal Conservancy is providing staffing for SDRC. More information about SDRC is available at <http://www.resources.ca.gov/sdrc.html>.

3. Riverside County MS4 Permit Staff Workshop (*Megan Quigley*)

On December 15, 2003, the Northern Watershed Protection Unit released the draft municipal storm water permit for the County of Riverside, the Riverside County Flood Control District and the Cities of Murrieta and Temecula within the San Diego Region (tentative Order No. R9-2004-001).

To assist the public in the review of the draft permit prior to the initial hearing before the Regional Board on February 11, 2004, staff will conduct a workshop on January 23, 2004 at the City Hall in Temecula (located at 43200 Business Park Drive, Temecula 92589) from 9 am to 3 pm. The purpose of the workshop is to educate business owners, developers, contractors, and municipal staff on the requirements of the tentative Order. Information related to the permit renewal process, including tentative Order No. R9-2004-001, the Fact Sheet/Staff Report, the agenda for the staff workshop, and the renewal schedule is posted on our web page at:

http://www.swrcb.ca.gov/rwqcb9/programs/rsd_stormwater.html.

4. Clean Beaches Initiative Grant for Imperial Beach (*Dave Gibson*)

On December 10, 2003, David Gibson presented the City of Imperial Beach with a check for \$500,000 for the third phase of its Clean Beaches Initiative Proposal. The event was attended by the Diane Rose, Mayor of Imperial Beach, City Council members Mayda Winter, Jim Janney, and Patricia McCoy, the City Manager, and staff representing Senator Denise Moreno Ducheny. State Senator Ducheny's representative presented a certificate to the City for their work protecting coastal water quality.

The Clean Beaches Initiative has provided 35 million dollars to help local agencies implement coastal clean up and protection projects throughout the state. The Clean Beaches Initiative was made possible by the approval of Proposition 13 by California voters in 2000, which raised nearly two billion dollars through the sale of general obligation bonds to protect the state's waterways, beaches, and drinking water supply. The City of Imperial Beach was awarded a total of 1.5 million dollars to implement a three-phase project. This project included a study and installation of dry weather urban runoff diversion systems for Date and Palm avenues. This Clean Beaches Initiative project will help protect water quality at a beach that has previously been closed for as many as 74.6 Beach Mile Days per year.

5. California Stormwater Quality Association (CASQA) Meeting in San Diego (*Michael McCann*)

On January 9 CASQA convened its winter meeting in San Diego featuring speakers from the State Water Resources Control Board (SWRCB) and the US Environmental

Protection Agency (USEPA). John Robertus and Michael McCann joined the approximate 120 attendees representing stormwater agencies, consultants, and regulatory staff to hear Celeste Cantu of the SWRCB and Alexis Strauss of the USEPA review their respective regulatory programs and discuss current and future stormwater issues. Both speakers fielded a wide range of questions from the attendees. Also, Val Connor of the SWRCB provided an informative overview of the Surface Water Ambient Monitoring Program (SWAMP) being implemented by State and Regional Boards.

6. Public Outreach: Teaching SDSU Extension Course (*Amy Grove and John Odermatt*) During the Fall Semester of 2003, Mrs. Amy Grove (Engineering Geologist in the Land Discharge Unit) taught a course entitled "Natural Disasters" covering such topics as earthquakes, volcanoes, floods, fire, hurricanes, tornadoes, climate, and landslides. This course was offered to upper-division college students (juniors and seniors) through San Diego State University at the National City Higher Education Center. Amy's experiences gained while working at the Regional Board provided an opportunity for her to educate students on the effects of natural disasters, most specifically on the topics landslide mitigation and slope failures. Amy's work on the project was consistent with the Strategic Plan Goals to promote more effective public education and outreach.

PART B

SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. Sanitary Sewer Overflows (SSO) (*Chiara Clemente, David Hanson, Bryan Ott, Victor Vasquez*) (*Attachment B-1*)

From December 1 to December 31, 2003, there were 18 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 14 of these spills reached surface waters or storm drains, but none resulted in closure of recreational waters. Of the total number of overflows from public systems, one was 1,000 gallons or more.

Eleven sewage overflows from private property in December were also reported; one overflow was 1,000 gallons or more; seven reached surface waters or storm drains; and one resulted in closure of recreational waters.

A total of 0.61 inches of rainfall was recorded at San Diego's Lindbergh Field in December 2003. For comparison, in November 2003, 0.29 inches of rainfall was recorded, and 18 public SSOs were reported. In December 2002, 1.98 inches of rainfall were recorded, and 30 public SSOs were reported.

Regional Board staff has updated the sewer overflow statistics for fiscal year (FY) 2002-2003 for each sewer agency and summarized the results in the attached table entitled "Public SSO Statistics Summary for FY 2002-2003 (July 1-June 30)."

Also attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through December 31, 2003, which contains a summary of all the sewer overflows (by FY) from

each agency since FY 2000-01. From July 1, 2003 through December 31, 2003, approximately 55.5 billion gallons of sewage was conveyed of which 3.0 million gallons was spilled (0.0054%).

Eleven Notices of Violation (NOV), two with requests for additional information, were issued in December for recent significant overflows. The NOV's were issued for the events described below:

City of San Diego

NOV R9-2003-0418 and Required Technical Report

The City of San Diego notified this office of a 10,080-gallon sanitary sewer overflow, of which none was reportedly recovered, that occurred on October 14, 2003 at 2656 Bayside Walk resulting in a discharge to Mission Bay and the Pacific Ocean. The overflow, reported by the City to be caused by the failure of a force main cleanout cap, resulted in the posting of signs warning of sewage contamination along the shoreline of Mariners Basin for 7 days. A demand for a required technical report was issued together with the NOV.

NOV R9-2003-0426

The City of San Diego notified this office of a 75,600-gallon sanitary sewer overflow, of which none was reportedly recovered, that occurred on October 6, 2003 at 11480 North Torrey Pines Road resulting in a discharge to the Pacific Ocean. The overflow, reported by the City to be caused by a force main break, resulted in the posting of signs warning of sewage contamination along 2 miles of Torrey Pines State Beach for approximately 3 days.

NOV R9-2003-0430

The City of San Diego notified this office of a 1,050-gallon sanitary sewer overflow, of which none was reportedly recovered, that occurred on November 6, 2003 at 8795 Biological Grade resulting in a discharge to the Pacific Ocean. The overflow, reported by the City to be caused by pump trucks overloading the main, resulted in the posting of signs warning of sewage contamination 1,500 feet north and south of the storm drain outlet near Scripps Pier for approximately 3 days.

Padre Dam Municipal Water District

NOV R9-2003-0428

The Padre Dam Municipal Water District notified this office of a 50,000-gallon sanitary sewer overflow, of which 25,000 gallons was reportedly recovered, that occurred on November 7, 2003 at 9120 Carlton Oaks Drive resulting in a discharge to Santee Lakes Nos. 1 and 2 as well as Sycamore Creek. The overflow, reported by the District to be caused by the failure of an influent pump station surge tank flange, resulted in the posting of signs warning of sewage contamination around Santee Lakes Nos. 1 and 2 as well as ponds within the Carlton Oaks County Club golf course.

City of Vista**NOV R9-2003-0415**

The City of Vista (City) notified this office of an overflow from the City's wastewater collection system near 247 East Bobier Drive in Vista that began on September 15, 2003 and terminated on September 16, 2003. The overflow volume was reported as 4,425 to 13,275 gallons. The City reported that this overflow was due to a sewer line blockage resulting from vandalism. The City reported that the overflow entered a storm drain and then reached Buena Vista Creek.

City of San Clemente**NOV R9-2003-0416 and Request for Technical Information**

The City of San Clemente (City) notified this office of a 16,156-gallon overflow that occurred on October 26, 2003 from the City's wastewater collection system at the Los Molino pump station at 390 Avenida Pico. The City reported that this overflow occurred due to a power failure followed by failure of the emergency generator at the pump station. The City reported that the overflow reached a flood control channel and the entire overflow was recovered from the channel. The City reported that no other surface waters were impacted. A Request for Technical Information was sent with the NOV to obtain more information regarding the overflow.

City of Oceanside**NOV R9-2003-0417**

The City of Oceanside (City) notified this office of a 6,580-gallon overflow from the City's wastewater collection system at the San Luis Rey Wastewater Treatment Plant upstream of the headworks that occurred on October 20, 2003. The City reported that this overflow occurred due to a sewer line break caused by construction activities. The City reported that the entire overflow was recovered and diverted into the treatment plant's headworks. The City reported that no surface waters were impacted. A previous significant overflow occurred at this site on August 8, 2003 for which Notice of Violation No. R9-2003-317 was issued.

Moulton Niguel Water District**NOV R9-2003-0423**

Moulton Niguel Water District (District) notified this office of a 1,800-gallon overflow from the District's wastewater collection system at the intersection of Via Angelina and Via Casitas in Mission Viejo that occurred on November 14, 2003. The District reported that this overflow occurred due to a sewer line root blockage. The District reported that the overflow reached Oso Creek and was recovered by pumping commingled creek water and sewage collected behind the Upper Oso barrier to a pump station. The District reported that the pump station then initially discharged the water and sewage from the creek to the Upper Oso recycled water reservoir but was then redirected to the collection system. The mixture of creek water and sewage that entered the Upper Oso reservoir was not recovered and commingled with recycled water in the reservoir that is distributed for non-potable recycled water use.

El Toro Water DistrictNOV R9-2003-0424

El Toro Water District (District) notified this office of a 1,030-gallon overflow from the District's wastewater collection system at 24782 Leto Circle in Mission Viejo that occurred on November 4, 2003. The District reported that this overflow occurred due to a sewer line grease blockage. The District reported that the overflow reached Oso Creek. A report from the County of Orange Health Care Agency indicated that this overflow resulted in the closure of ocean recreational waters adjacent to Doheny State Beach in Dana Point to prevent public contact with waters that may have been impacted by the overflow.

United States Marine Corps Base, Camp PendletonNOV R9-2003-0422

The U.S. Marine Corps Base Camp Pendleton notified this office of the following recent sanitary sewer overflows in the vicinity of Building 410251, Area 41 at Camp Pendleton:

- An 81,100-gallon overflow from USMCBCP's wastewater collection system that began on November 4, 2003 and terminated on November 7, 2003. USMCBCP reported that this overflow occurred due to a force main line break. USMCBCP reported that the overflow reached a dry unnamed tributary of Las Flores Creek and percolated into the ground.
- A 13,000-gallon overflow from USMCBCP's wastewater collection system that occurred on November 14, 2003. USMCBCP reported that this overflow occurred due to a force main line break. USMCBCP reported that the overflow reached a dry unnamed tributary of Las Flores Creek and percolated into the ground.

Eastern Municipal Water DistrictNOV R9-2003-0421

Eastern Municipal Water District notified this office of a 7,000-gallon overflow from the District's wastewater collection system at the intersection of Paraguay Drive and Crowne Hill Drive in Temecula that occurred on November 3, 2003. The District reported that this overflow occurred due to a sewer line blockage caused by debris. The District reported that the entire overflow was contained in an unlined flood control detention pond and recovered. The District reported that no surface waters were impacted.

2. Clean Water Act Section 401 Water Quality Certification Actions Taken in December 2003 (Stacey Baczkowski)

| DATE | APPLICANT | PROJECT TITLE | PROJECT DESCRIPTION | CERTIFICATION ACTION ¹ |
|---------|-------------------------------|-------------------------------------|---|-----------------------------------|
| 12/1/03 | North County Transit District | Amtrak San Onofre Second Main Track | Construction of a second main track to facilitate high-speed train passage. | Conditional |

| | | | | |
|----------|--|--|--|----------------------------------|
| 12/1/03 | City of San Diego | Police Vehicle Facility Project | Three-foot extension of a box culvert in the partially channelized Auburn Branch tributary to Chollas Creek. | Conditional |
| 12/4/03 | Newland Communities/ 4S Kelwood G.P. | 4S Ranch/ Lusardi Creek | Dredging, vegetation removal and maintenance of Lusardi Creek lower lake area as a vector control measure. | Withdrawn Per Applicants Request |
| 12/5/03 | California Department of Transportation; | Managed Lanes/ Operational Improvements | Includes four managed lanes in the existing freeway median, direct access ramp interchanges to facilitate high occupancy vehicles, auxiliary lanes added, and widening existing bridges. | Conditional |
| 12/5/03 | Padre Dam Municipal Water District | Willow Grove Sewer Main Replacement and Upsizing Project | Replacement of approximately 4,440 feet of existing sewer main within the City of Santee. | Conditional |
| 12/16/03 | City of San Diego, Metropolitan Wastewater Dept. | Washington Creek Emergency Manhole Repair Project | Emergency cleaning of 4,858 feet of sewer pipeline. | Conditional |

¹ Standard certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Denials are issued when the projects will adversely impact water quality and suitable mitigation measures are not proposed or possible. Time expired refers to projects that may proceed due to the lack of an action by the Regional Board within specified regulatory timelines.

Public notification of pending 401 Water Quality Certification applications can be found on our web site at http://www.swrcb.ca.gov/rwqcb9/Programs/Special_Programs/401_Certification/401_certification.html.

3. San Diego Municipal Storm Water Permit Update (Phil Hammer)

The San Diego County Copermittees' annual compliance reports are due on January 31. The annual compliance reports describe and assess all of the urban runoff management activities conducted by the Copermittees during the previous year. The Regional Board met with the County of San Diego, which serves as Principal Permittee, to discuss the strategies the Copermittees' will be using in the reports to assess the effectiveness of their programs. The Copermittees had previously developed a guidance document addressing the assessment of program effectiveness to be used during the writing of the annual compliance reports. For this year's annual compliance reports, the Copermittees will be considering permit compliance, changes in public and municipal awareness, and best management practice implementation during their program effectiveness assessments. In future years, the assessments will be expanded to include consideration of all of the elements discussed in the Copermittees' assessment guidance document.

Also due January 31 are the Watershed Urban Runoff Management Plan (WURMP) annual compliance reports and annual monitoring report. The WURMP annual reports document the watershed specific activities the Committees conducted within each watershed and the annual monitoring report discusses the findings of last year's monitoring efforts. Updates on the status of these submittals will be provided in subsequent Executive Officer Reports.

USEPA and its contractor Tetra Tech, Inc. have finalized the report for the compliance evaluations they conducted with Regional Board staff in October 2003. The compliance evaluations addressed the municipal urban runoff management programs of the Cities of La Mesa, San Marcos, Imperial Beach, and Vista. The evaluations resulted from detailed week-long assessments of each municipality's overall success in meeting the requirements of the San Diego Municipal Storm Water Permit, including in-field verification of program implementation. The finalized report identifies potential program violations, program deficiencies, and positive program attributes. The report has been forwarded to the municipalities and staff will be conducting follow-up investigations to ensure that all potential deficiencies and violations have been corrected. The report is available for review upon request.

4. Fallbrook Land Conservancy Uses Settlement Fund to Expand Vital Habitat Corridor
(Laurie Walsh)

In the Fall of 1998 CENTEX Homes and Appleton Brook Hills LLP violated Cleanup and Abatement Order 2000-280 and the California Water Code (Water Code) by discharging soil containing petroleum hydrocarbon waste to land in a Fallbrook residential neighborhood causing conditions of pollution and nuisance. Two years later CENTEX Homes and Appleton Brook Hills LLP removed all of the soil contaminated with petroleum hydrocarbons and restored the site to its original condition. On December 12, 2001 the Regional Board adopted Resolution 2001-255 that described the conditions by which the Regional Board, CENTEX Homes, and Appleton Brook Hills LLP settled violations of CAO 2000-280 and the Water Code. CENTEX Homes and Appleton Brook Hills LLP agreed to pay the Regional Board \$404,000 in penalties for the illegal discharge. CENTEX Homes and Appleton Brook Hills LLP shared the \$404,000 settlement equally. At the December 12, 2001 board meeting, as part of the settlement CENTEX Homes and Appleton Brook Hills LLP agreed to donate \$50,000 (of the original \$404,000) to the Fallbrook Land Conservancy (the Conservancy).

The Conservancy recently purchased a 20-acre parcel of natural habitat in southern Fallbrook with the settlement funds and other monies. The parcel, which expands the Conservancy's Hellers Bend Preserve to 47 acres, contains numerous large sycamore and oak trees, old growth sagebrush and white sage. The Conservancy used a \$200,000 bequest from the estate of Inez Sorgenfrei, the \$50,000 award from the CENTEX Homes and Appleton Brook Hills LLP donation, and a \$50,000 donation from the seller to purchase the property.

Over 200 acres of the 540 acres owned by the Fallbrook Land Conservancy are in this vital corridor. A total of 107 species of birds has been sighted on its preserves, many of which have trails open to the public. Acquisition of this land protects valuable bird habitat and a highly vulnerable plant community that are largely confined to northwestern San Diego County and southwestern Riverside County. The parcel also features a spring-fed drainage that connects with Ostrich Farms Creek, which leads directly into the San Luis Rey River. The San Diego County Bird Atlas project of the San Diego Natural History Museum shows that the riparian areas extending from the San Luis Rey River on the south to the Santa Margarita River on the north comprise one of the prime bird-breeding habitats in all of Southern California.

5. Status of Statewide Proposition 13 and Federal Grant Programs *(Dave Gibson)*
(Attachment B-5)

In March 2003, the State Board released a Consolidated Request for Concept Proposals that combined the following 3 grant funding sources: 1) federal Clean Water Act section 319(h) program funds; 2) the first funds available under Proposition 50; and 3) the remaining funds in the three Proposition 13 grant programs (Attachment B-5, Table 1).

The competitive grant application process consisted of two parts: a general Request for Concept Proposals and an invitational Request for Full Proposals. A total of 650 Concept Proposals were submitted statewide. Four regional panels were assembled to evaluate and rank the Concept Proposals. The Southern Panel consisted of representatives from the State Water Resources Control Board (SWRCB), the Los Angeles, Santa Ana, San Diego, Lahontan, and Colorado River Regional Water Quality Control Boards, the CALFED Watershed Program, US EPA, California Coastal Commission, Department of Parks and Recreation, Department of Health Services, and Department of Pesticide Regulation. The Southern Panel reviewed approximately 200 Concept Proposals and recommended inviting full proposals for 71 projects worth \$83,752,551. The full proposals were required to include contract-ready scopes of work and budgets.

The full proposals were received in October and reviewed. Each proposal received three critical technical reviews and one contract readiness review. The Southern Panel met in December and reviewed each proposal, agreed upon scores and rankings, and submitted a recommended funding list for each grant program to the Selection Committee. The Selection Committee, which included representation from each of the four Review Panels and State Board, generally concurred with the recommendations of the Southern Review Panel. Those projects that were determined to be both technically ready and contract ready are on the recommended funding lists that will be presented to the SWRCB during a workshop on February 3, 2004. The SWRCB is scheduled to adopt a grant award resolution for these lists on February 19, 2004.

In the San Diego Region, 16 applicants were invited to submit full proposals for approximately 23 million dollars in projects. The Regional Board worked closely with the applicants to ensure that competitive, contract ready proposals were submitted. Fourteen proposals were submitted and all fourteen have been recommended for funding

by the Southern Panel and Selection Committee (Attachment B-5, Table 2). It is worth noting that not only were all of the San Diego Region proposals recommended for funding, but only 3 of the 14 San Diego Region projects failed the contract readiness test in comparison to the nearly 70% failure rate among proposals statewide. The applicants in the San Diego Region received nearly all (85%) of the funds that they requested in this round. Proposals that were not technically ready and/or contract ready will be recommended for funding to the SWRCB no later than June 2004.

6. Budget Trade and Gas, Status of Cleanup (*Sue Pease*)

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Since the last report on this site (Executive Officer's Report August 2003), both significant progress and serious setbacks have occurred. The most important accomplishment was the commencement of the pilot test of the Cal-Clean high-vacuum vapor extraction (HVVE) system at the site. Set backs include Mr. Hsu's failure to complete the vapor risk assessment study and submit a technical report as required by the Cleanup and Abatement Order (CAO) because of a work stoppage by his consultant Southern California Soil and Testing (SCST). Also, the County of San Diego is threatening to issue a Cease and Desist (C&D) Order against Mr. Hsu for failing to upgrade the UST system as required by law.

On January 6, 2004, a pilot test of the HVVE system commenced at the site. After the initial 15-day extraction, the data will be evaluated for future extraction periods. Unfortunately, the start up of the pilot test was unnecessarily delayed several months because SCST failed to submit the cost pre-approval request to the UST Cleanup Fund (Fund). By October 3, 2003, this task still had not been done, so staff took action by getting a copy of the bid from Mr. Noel Shenoi, the vendor for the HVVE system, and finding a copy of the cost pre-approval request (which had been prepared by SCST but never submitted) and gave it to SCST's geologist subconsultant on October 8, 2003. The Fund granted a cost pre-approval for the HVVE system on November 7, 2003.

The pilot test was further delayed because of a work stoppage by SCST in early November. Without notice to either Mr. Hsu or the Regional Board, SCST stopped working on the project while deciding whether or not to drop Mr. Hsu as a client. Staff discovered the work stoppage in a phone call from SCST's president, Mr. Howard Katz, on December 23, 2003. On December 24, 2003, SCST announced it would drop Mr. Hsu as client, but at staff's urging, agreed to complete the fourth quarter groundwater monitoring and sampling on time, and to produce the monitoring report by January 30, 2004, to prevent Mr. Hsu from violating that provision of the CAO. Unfortunately, the work stoppage resulted in a different violation of the CAO because the vapor risk assessment study was never performed so the technical report of the study, due on January 5, 2004, was never submitted.

SCST dropped Mr. Hsu as a client because of concern that the Fund will not reimburse Mr. Hsu if the County issues him a C&D Order. This is the third time that SCST has stopped working on Mr. Hsu's site. The other stoppages occurred in October 2002, and August 2003. Staff confirmed that the County is considering issuing a C&D Order

against Mr. Hsu for failing to upgrade the UST system in compliance with current laws. If the C&D Order is issued, and if Mr. Hsu stays in compliance with that order, the Fund would continue to reimburse Mr. Hsu for cleanup expenses. Staff discussed the pending C&D order with Mr. Hsu on December 24, 2004. Mr. Hsu has not done the required UST system upgrades, and cannot do them until he secures funding to pay for the upgrades. Staff urged Mr. Hsu to aggressively pursue the funding needed to pay for the station upgrades, and get the work done. Mr. Hsu said he would contact his financier to find out how long the funding process would take.

In the meantime, Mr. Sheno of Cal-Clean is assisting Mr. Hsu with finding a replacement consultant to manage the project and prepare technical and monitoring reports. A potential consultant, Mr. Gary Clossin, was present at the HVVE pilot test, but will not take Mr. Hsu as a client until issues between the Fund, SCST and Mr. Hsu are resolved. Mr. Hsu is waiting for a reimbursement check from the Fund to cover debt to SCST. In response to this situation, staff has begun to facilitate communication among Mr. Hsu, SCST, and the Fund to expedite the issuance of the latest reimbursement check.

Regarding other issues of compliance, a Notice of Violation (NOV) was issued for the 2nd Quarter 2003 Ground Water Monitoring Report. The report was not submitted by the due date, July 30, 2003, the table was incomplete, and the laboratory data had not been submitted electronically to Geotracker. SCST subsequently corrected the problems. The size of the groundwater contaminant plume has not increased, and the contaminant levels within the plume are not increasing. There are no drinking water wells within 2 miles of the site. Therefore, the delays have not resulted in further degradation of water quality at the site, and no drinking water wells are threatened by the pollution. The vapor risk assessment study should not be conducted while the HVVE system is running because the subsurface vapors will be in a state of flux, and accurate samples cannot be collected for the vapor risk assessment calculation. At this time, the vapor risk assessment should be postponed until the end of the HVVE remediation.

The outstanding ACL complaint against Mr. Hsu will be on the agenda for the Board's consideration at the March meeting. The Board has been deferring action on the complaint to continue to assess Mr. Hsu's ongoing compliance with the CAO.

7. Pioneer Builders, Inc. Administrative Civil Liability Status Report (Rebecca Stewart)

On December 12, 2003 the State Board accepted a petition requesting review of the Regional Board's November 12, 2003 administrative civil liability assessment of \$73,750 against Pioneer Builders, Inc. for violations of the San Diego Region Basin Plan, State Board Order No. 99-08-DWQ and Cleanup and Abatement Order No. R9-2003-0158. The petition has the effect of staying the liability until the State Board completes its' review and determines whether to dismiss or accept the petition. We will periodically update the Regional Board of the status of the petition.

8. Pioneer Builders Inc., Compliance Schedule (*Robert Morris*)

Cleanup and Abatement Order (CAO) No. R9-2003-0158 establishes requirements for Pioneer Builders, Inc. to take corrective action for unauthorized discharges of fill to waters of the State resulting from construction activities associated with the Castillo del Mar project located at 35262 and 35272 Camino Capistrano, Tentative Tract Map No. 16197, in the City of Dana Point. Directive No. 2 of the CAO, as modified by the SDRWQCB on November 26, 2003 required Pioneer Builders Inc. to complete on-site restoration of no less than 0.066 acres of wetlands/waters of the State within 39 (thirty-nine) calendar days of the date that the City of Dana Point grants an extension of the project's Tentative Tract Map. Subsequently by e-mail on December 24, 2003, the SDRWQCB concurred with a request from Mr. Terry Hirschag, Vice-President of Pioneer Builders Inc., to allow 60 days for completion of the on-site mitigation.

The SDRWQCB is currently evaluating a request from Pioneer to amend the CAO to specify June 15, 2004, as the new completion date for constructing the onsite wetlands. Pioneer Builders reported on January 9th that they have not renewed activities on the site of the constructed wetlands as they are still waiting authorization from the City of Dana Point. The City notified Pioneer that it anticipates beginning a "review and plan check" of the wetland plan around mid-January and estimates that it will take approximately 30 days to complete their process for this item. Based upon the 30-day review time, Pioneer expects to begin construction of the on-site wetlands on February 16, 2004.

Pioneer further clarified that it meant construction would take 60 "work days" rather than 60 "calendar days". They estimate that it will take 10-14 days for mobilization of subcontractors after issuance of permits and an additional 7 days for inclement weather.

9. State Auditor's Report on Regional Board's Administration of Water Quality Improvement Projects Funded by Enforcement Action (*Mark Alpert*) (*Attachment B-9*)

On December 17, 2003, the California Bureau of State Audits (Bureau) released its' report entitled **Water Quality Control Boards: They Could Improve Their Administration of Water Quality Projects Funded By Enforcement Actions**. The report summarizes the Bureau's evaluation of the State and Regional Board's oversight of approved Supplemental Environmental Projects (SEPs) and of the resources going into the Cleanup and Abatement Account generated from assessment of civil liability. The evaluation covered a five-year period (July 1998-June 2003). The audit included reviews of the Cleanup and Abatement Account (CAA) managed by the State Board and site visits to San Diego and three other Regional Boards: Santa Ana (Region 8), San Francisco (Region 2), and Sacramento (Region 5S).

A copy of the Bureau's Summary Report is attached. The full text of the report was previously mailed to each of the Regional Board members. The report can also be viewed at the Bureau of State Audits Web site at <http://www.bsa.ca.gov/bsa/summaries/2003-102.html>.

The Bureau's findings and conclusions were favorable to the San Diego Regional Board for its' close oversight of SEPs and vigilant collection of resources generated from assessment of civil liability.

The following is a summary of the major findings and recommendations:

The amount the State Water Resources Control Board allocates to a Region does not necessarily equal the civil liability collected in that Region.

The report concluded it is reasonable that the State Board would base its commitment of CAA funds not on where the liabilities are assessed but on what represents the highest and best use of those funds. Of the \$26 million in total assessed liability collected statewide from fiscal years 1998 through 2002, the San Diego Region collected \$4.5 million. This was the third highest behind only the Central Valley and Santa Ana Regions, which collected \$6.4 million and \$6.7 million, respectively during this period. Of the \$4.5 million liability, the San Diego Region received nearly \$2.65 million from the CAA fund in the form of committed supplemental environmental projects.

Not all Regional Boards are taking advantage of strategies to finance water quality improvement projects using funds from enforcement actions.

The report is critical of the fact that not all Regional Boards request reimbursement of staff costs associated with preparing civil liability complaints. The report concluded there is confusion by some of the Regions on how such funds are requested, and how such reimbursed funds may then be spent. The report recommends that the State Board assist the Regional Boards in this area. The report noted the San Diego Region received the largest return of staff costs (approx \$230,000) of the \$670,000 total reimbursed to the Regions.

Regional Boards can retain some benefit of funds from their enforcement actions by approving supplemental environmental projects.

The report noted that each of the four Regional Boards visited varied both in terms of the numbers of SEPs allowed and the overall amounts of such SEPs. Although the San Diego Region approved the fewest number of SEPs, they totaled the largest dollar amount (7 projects for \$3.4 million). The report recommends that all Regional Boards should identify any needed water quality improvement projects in their regions and submit the appropriate funding requests to the State Board. Further, the report recommends that Regional Boards should consider reviewing each other's strategies in implementing and overseeing SEPs.

Regional Boards do not always ensure that dischargers complete supplemental environmental projects or pay fines.

The report noted that Regional Boards varied in their efforts to ensure that polluter's complete the SEPs they approve. While SEPs can be a means of retaining some benefit of an enforcement action with a particular Region or area, oversight of such SEPs can require a great deal of staff time. Even reliance on a third party for such oversight requires that the Regional Board ensure this third party track completion. The report

recommends that the State Board require that the Regional Board monitor and report on the progress and completion of these projects.

The report complemented both the San Diego and Central Valley Regions for effectively enforcing the terms of the SEP agreements. Alternatively, the report was critical of two of the Regional Boards that encourage SEPs but apparently do not adequately oversee the completion of SEPs. The report further complemented the San Diego Region for collecting interest from one-third party contractor that had not completed the SEP but continued to hold the fine amounts. In another recent case, the San Diego Region compelled a third party contractor to reimburse the State \$262,000 plus \$12,000 interest for a SEP project that had not been completed and was well past the due date specified by the Regional Board.

The report emphasizes that failing to pursue collections of fines imposed on dischargers, Regional Boards undermine enforcement.

Some Regions are not always assessing MMPs when polluters continue to commit MMP violations.

The report notes two of the four Regional Boards visited are not always assessing mandatory minimum penalties (MMPs) when dischargers continue to commit violations subject to MMPs. The report cited the San Diego Region, in the only negative mark noted against the region, for not promptly taking action on one effluent violation out of hundreds it had acted upon. The report recommends that the State Board require the Regional Boards issue MMPs within seven months of violations subject to MMP.

Because the State Board does not always obtain adequate information on all water quality project proposals, it cannot ensure that it funds the most meritorious projects.

The report is critical of the State Board for not following its procedures for approval of two of the 26 projects funded from the CAA that were reviewed as part of this audit. The report recommends that the State Board formally adopt procedures to approve projects funded from the CAA.

10. San Diego Region Wildfires Update (Stacey Baczkowski) (Attachment B-10)

San Diego County municipal storm water copermittees affected by the October 2003 wildfires continue to actively address erosion and sediment issues. The County of San Diego (County) is continuing its assessment of home, road, and park sites to determine if added best management practices (BMPs) to manage fire related erosion are necessary, and to prioritize their installation. To date, the County has assessed over 100 home sites, 20 road segments, and 20 park sites. The County has applied bonded fiber matrix or hydromulch with seed to approximately 800 acres, installed approximately 160,000 gravel and sand bags, and installed approximately 40 miles of fiber rolls. To date, the County has not experienced significant erosion or sediment problems as a result of the fires.

The City of Poway (City) has installed 64 check dams throughout the City to capture ash and sediment. The check dams proved effective in capturing ash and sediment during the December 25, 2003 rain event. Material removed from behind the check dams is taken to the City's Materials Handling Yard for recycling. The City of Poway has also applied for coverage under the U.S. Army Corps of Engineers (ACOE) Regional General Permit No. 63 Repair and Protection Activities in Emergency Situations (RGP No. 63). Based on revised FEMA flood maps, the City is concerned that areas adjacent to Poway and Rattlesnake Creeks may flood during future rain events. In order to increase channel capacity and reduce the risk of flooding, the City is proposing to dredge pilot channels and remove 4,500 cubic yards of silt. The Regional Board is working with the ACOE on this permit application and work is expected to start the week of January 12, 2004.

The City of San Diego is also continuing to assess burned areas and install BMPs, as summarized in the attached Union Tribune article.

San Diego Gas and Electric (SDG&E) has made substantial progress in employing emergency runoff/erosion protection in high priority areas where SDG&E put in new access roads or substantially graded roads in order to restore power. The high priority areas that have been substantially addressed to date are:

- Cuyamaca State Park
- Descanso District of the Cleveland National Forest
- Palomar District of the Cleveland National Forest
- Tooth Rock area along Poway Road between Espola Rd and Hwy 67
- Mountain View Drive area between Harbison Canyon and Crest, and the Peutz Valley area
- Rim of the Valley area near Valley Center High School

SDG&E is continuing to identify sites for BMP installation, especially in the lower elevations. They are in the process of setting up a customer issue call in number (not available at this time) and have contacted the Harbison Canyon Community Emergency Team for input regarding customer concerns in that area.

The California Department of Transportation (Caltrans) has also implemented erosion control BMPs throughout the burned areas. BMPs include fiber rolls and hydroseeding of steeper slopes within Caltrans' right-of-way. The Regional Board has also discussed with Caltrans the early assessment of culverts and other drainage structures that may require cleaning following excessive erosion and sedimentation in burned areas. The purpose of this is to facilitate sediment removal where necessary before an emergency arises, and to prevent, or reduce, the risk of flooding.

The Department of Health Services provided the attached pre- and post-fire water quality data. Additional water quality samples have been collected by the County and other copermittees, but laboratory results are not yet available.

11. Update on Wildfires Solid Waste Management (*John Odermatt*)

The Regional Board Land Discharge Unit (LDU) staff continues coordinate our efforts with the public and other local, State and Federal agencies on debris management issues in the aftermath of the wildfires that have devastated large areas of the San Diego Region. The LDU staff participates in weekly teleconferences with Federal, State and local agencies to discuss solid waste management and disposal issues in the aftermath of the wildfires. The Regional Board LDU staff also remains in close contact with landfill operators and other State and local agencies (City and County) as they begin to work through various solid waste management issues associated with the cleanup effort.

Since the Regional Board adopted Resolution No. R9-2003-0391 (November 2003), the Regional Board enrolled two new dischargers for coverage under the conditional waiver for management of wildfire debris at temporary waste staging areas: LTS Equipment Inc. Recycling at 1682 Mountain View Road, El Cajon, CA 92021; and Julian Industrial Services, Inc. at 3578 Highway 78, Julian, CA 92036.

To date, the management and disposal of solid wastes from wildfire destruction in the San Diego Region has been estimated as follows:

City of San Diego: West Miramar Landfill - as of 12/30/03 their records indicate approximately 13,697 tons of fire wastes.

Allied Waste Inc.: Ramona, Sycamore and Otay Landfills - as of 12/30/03 they report a total of 34,555 tons approximately distributed as follows:

Ramona LF - approximately 7,452 tons.

Sycamore LF (east of City San Diego) – 26,613 tons with 185 tons of metal recycled.

Otay LF - 490 tons.

The grand total is **48,252 tons** of wildfire related wastes discharged to date.

At the outset of the disaster, the Regional Board LDU staff estimated the total amount of wildfire related debris would range between 150,000 and 300,000 tons (depending upon the level of cleanup at all sites). From those numbers, staff estimates that approximately 80% of the total debris will come from the unincorporated areas of San Diego County, while the remaining 20% was attributed to cleanup in the Scripps Ranch area of the City of San Diego. To date, approximately 83% of the generated wildfire wastes have reportedly been discharged into either the Sycamore or West Miramar Landfills (both in proximity to City of San Diego).

Using staff's initial estimates compiled with data from the City of San Diego (Environmental Services Division), tempered by recent field observations and professional judgment, the LDU staff estimates that approximately 16 % of the total wildfire wastes in the San Diego County may have been discharged into local Class III MSW Landfills as of the end of December 2003. Currently, the LDU staff is unaware of

any more accurate estimates for wildfire debris management compiled or estimated for our Region.

The Regional Board LDU staff will continue to work with FEMA, OES, Cal-EPA, the local agencies, and Landfill operators to resolve debris/waste management issues associated with Regional wildfire recovery efforts.

12. Otay Class III Landfill Alternative Daily Cover (ADC) *(Brian McDaniel and John Odermatt)*

In October 2002, the San Diego Landfill Systems – Allied Waste Inc. (the “discharger”) provided the Regional Board with an addendum to their JTD as a technical report entitled “Demonstration Project Final Report – Biosolids/ Soil and Biosolids / Green Waste Mixtures used as Alternative Daily Cover – Otay Landfill, Chula Vista, California. The report also included a request from the discharger to amend existing waste discharge requirements (Order 90-09 and addenda thereto) to allow the use of an alternative daily cover (ADC) comprised of a mixture of biosolids, green-waste, and/or soil. The specific material requirements and limitations for alternative daily covers (ADC) are indicated in California Code of Regulations (CCR) Title 27, § 20690 *et seq.* The uses of processed green material, and sludge or sludge derived materials (or “biosolids”) in ADC are specifically allowed by § 20690(b)(3) and § 20690(b)(4).

The discharger presented a technical report of results and included the following proposed characteristics for defining the composition of biosolids/greenwaste /soil mixtures as ADC at the Otay Annex Landfill:

- Soil or green-waste mixed with biosolids to make ADC material must be either “nonhazardous waste” [per criteria of CCR Title 27, § 20220(a)] or “inert waste” [per criteria of CCR Title 27, § 20230(a)].
- The average volumetric mixture ratio was 5:4:1 (biosolids:greenwaste/mulch: soil) provided adequate control of odors during the pilot tests conducted during the months of August and September 2002.
- During the pilot test, the solids content of the biosolids, received from the City of San Diego Metropolitan Wastewater Department, varied between 22 and 32%.
- The biosolids, used in the ADC mixtures by the Otay Annex Landfill were certified, by the City of San Diego Metropolitan Wastewater Department, as meeting the Class B pathogen requirements of CFR Title 40, § 503.32(b)(3).

The performance standards and criteria of ADCs as established in CCT Title 27 for the protection of water quality, include the following:

- Daily and intermediate - interim cover at landfills is “daily cover” and “intermediate cover” as defined by the CIWMB (see § 20160) [per CCR Title 27, § 20705(a)].

- Minimize percolation – interim cover over wastes discharged to a landfill shall be designed and constructed to minimize percolation of liquids through waste [CCR Title 27, § 20705(b)].
- Match unit classification – daily and intermediate covers shall only consist of materials, which met the classification criteria for wastes that can be discharged to that landfill [CCR Title 27, § 20705(e) (1)].
- Composition – daily and intermediate covers shall only consist of materials, whose constituents (other than water) and foreseeable breakdown byproducts (chemicals of concern or “COCs”), under the chemical (including biochemical) and temperature conditions which it is likely to encounter at the landfill, either [CCR Title 27, § 20705(e)(2)]:

“... for composite-lined portions of the Unit, are listed as COCs in the Unit’s water quality protection standard (Water Standard), created pursuant to § 20395.”

The Regional Board staff is preparing tentative Addendum No. 4 to Order 90-09 establishing waste discharge requirements (WDRs) for the use of the proposed alternative daily cover (ADC) at the Otay Class III Landfill. The staff plans to include that tentative addendum as an agenda item for consideration by the Regional Board on February 11, 2004.

13. Prima Deshecha Landfill- Orange County (*Amy Grove and John Odermatt*)

On November 12, 2003, the Regional Board adopted waste discharge requirements (Order R9-2003-0306) for the expansion of waste management and disposal activities into the proposed Zone 1 at the Prima Deshecha Landfill.

On December 9, 2003, the Regional Board staff received an addendum to the Joint Technical Document (“JTD”) proposing a modification to the leachate collection and removal (LCRS) system for Zone 1 at the Prima Deshecha Landfill. The proposed modification would reduce the required thickness of the required LCRS gravel layer from 1 foot to a minimum of 9-inches. The discharger has provided the Regional Board with a JTD addendum containing a technical analysis to support their conclusion that the proposed design can accommodate the anticipated volume of leachate to be generated by the waste management unit in Zone 1. The construction of the waste management unit in Zone 1, Phase B is currently underway, so the discharger hopes to implement the design change for the LCRS upon approval of the Regional Board.

To accommodate the discharger’s request for a short-term implementation of the proposed design change to the LCRS, the Regional Board staff will prepare tentative addendum number 1 to Order R9-2003-0306 for consideration by the Regional Board during the meeting on February 11, 2004. The discharger has also proposed additional changes to the Monitoring and Reporting Program (MRP). However, the Regional Board

staff has informed the discharger of the need to research additional technical issues before evaluating any future changes to the MRP.

14. Redevelopment of Forster Canyon Landfill – Orange County *(Amy Grove and John Odermatt)*

On December 22, 2003, the Regional Board staff met with project proponents (Mr. Richard Julian - The Meadows and Mr. Myron Sukut – Sukut Engineering) who are working on a plan to redevelop the property containing the Forster Canyon Landfill. The project proponents gave the Regional Board staff an overview of their proposed project for a residential development, which necessarily includes the implementation of landfill gas mitigation measures for protection of public health and a landslide mitigation project comprised of a permanent ground water extraction system.

The project proponents discussed their conclusions that a permanent groundwater extraction system is a necessary component of the project to ensure the stability of the slopes and the long-term integrity of the existing waste management unit. The project proponent understands that the RWQCB needs to review the geotechnical data/analyses associated with the slope stability aspects of the project. The project proponents acknowledge they did not submit the geotechnical information associated with slope stability for this project. The project proponents indicated that they will submit technical reports slope stability analyses for the proposed development and a geotechnical analysis of the need for a groundwater extraction system.

The project proponents will also need to provide the Regional Board with additional information on their proposed project. One issue to be resolved is how the groundwater extraction system would be operated and maintained after the developer relinquishes control of the project to the new owners (property owners). The project proponents stated they would submit dewatering and groundwater discharge information as part of their next addendum for this project. The Regional Board staff provided Messrs. Julian and Sukut with copies of the following documents: Order 94-106 and addendum no. 1 thereto; our SWRCB JTD Index; and copy of Section 21585, CCR Title 27 requiring that dischargers complete the JTD index. The Regional Board staff asked that the project proponents complete the SWRCB JTD Index and attach any additional supporting information with their next submittal to the RWQCB.

PART C

STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Status of Invoicing Federal Facilities for Annual Fees for WDR/NPDES *(Mark Alpert)*

During the December 10, 2003 meeting the Executive Officer reported on the intent to re-initiate the billing process for federal facilities that are regulated by WDR/NPDES permits administered by the Regional Board. As you may recall, in 2002 under direction of the State Board, the San Diego Region discontinued pursuing \$300,000 in uncollected annual fees from the Federal agencies accrued from 1994 through 2001. The Regional

Board also delayed billing these same federal facilities for fiscal year 2002, a value of approximately \$170,000.

Since the December 2003 meeting, the Regional Board has identified all Federal facilities that have current WDRs/NPDES and prepared the necessary requests to the State Board to re-establish the billing process. Federal agencies, such as the Navy, Marine Corps, Border Patrol, and Army Corps of Engineers own and operate approximately 10 percent of the facilities regulated by the San Diego Region. Based on the current annual fee schedule, these facilities represent over \$270,000 in potential revenue for fiscal year 2003-04. This does not include annual fees for those enrolled in the Industrial and construction stormwater permits. The table below compares the billing information of public vs. Federal entities regulated by WDR and NPDES permits.

| Program | Facilities Receiving invoices | Amount Invoiced | Federal Facilities not invoiced | Potential Annual Fee | Percent of Program |
|-------------|-------------------------------|-----------------|---------------------------------|----------------------|--------------------|
| NPDES | 121 | \$1,575,694 | 12 | \$147,293 | 9% |
| WDR - NON15 | 208 | \$842,255 | 10 | \$55,917 | 7% |
| WDR-SUB15 | 32 | \$707,988 | 8 | \$68,670 | 10% |
| Total | 393 | \$3,476,289 | 30 | \$271,880 | 8% |

We will periodically update the Regional Board as the progress of invoicing Federal Agencies and collection of annual fee proceeds.